IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 12332 of 2004

Between:

1 J.Raghuraj Goud, S/o J.Satyanarayana,
R/o H.NO.8-3-228/1280/309, Jawaharnagar, Yousufguda, Hyd.
2 Hari Co-Op Housing Society, Regd.No.TA-171, Rep by its President

J.Raghuraj Goud, O/o H.NO.8-3-228/1280/309, Jawaharnagar,
Yousufguda, Hyd.

..... PETITIONERS

AND

1 The Sub-Inspector of Police, Kukatpally Police Station, R.R.Dist.
2 A.Rami Reddy, The Sub-Inspector of Police, Kukatpally Police Station,

R.R.Dist.
3 Mohd. Afzal, S/o. Md. Haneef,
G.P.A. Holder R/O. 10-1-1190/2, A.C. GUARDS, Hyderabad.
R-3 is impleaded as C.O. Dt. 3.8.2004 in WPMP. NO. 16752 /2004.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of writ of mandamus quashing the F.I.R in Crime NO.423/04 on the file of the first respondent herein.

Counsel for the Petitioners: MR.A.RAMANARAYANA

Counsel for the Respondent Nos.1 & 2.: GP FOR HOME

The Court made the following:

THE HON'BLE SRI JUSTICE B.PRAKASH RAO

W.P.No.12332 of 2004

ORDER:

The petitioners herein, who include the President of a registered society under the name and style of Hari Cooperative Housing Society filed this writ petition *inter alia* seeking writ of Mandamus for quashing the F.I.R in Crime No.423 of 2004 on the file of the first respondent herein.

The case of the petitioners herein is that the petitioner No.1 was elected as a President in the elections conducted on 06.09.2002. The said society purchased land in Sy.Nos.26 to 29 of Allapur Village, Balanagar Mandal, Rangareddy District under registered sale deeds. However, the said area is territorially situated outside the jurisdiction of the first respondent herein.

The complaint is that the second respondent, who is working as a Sub-inspector of police in the first respondent-Station, is illegally interfering with the affairs of the Society at the instance of the rival groups in the Society. It was submitted that in regard to plot Nos.206, 208, 209, 213, 214,216, 217, 222, 223, 229 and 244, the same had to be resumed since no construction was made and subsequently they were allotted to fresh members of the Society and the sale deeds were duly executed by the office bearers of the Society. However, on a complaint received by the first respondent herein at the instance of the respondent No.3 herein, who has been subsequently impleaded as per the Court orders, dated 03.08.2004, a crime was registered under Sections 415, 420 and 409 IPC in Crime No.423 of 2004. The main allegation is found to the effect that

the petitioners-Society is selling the plots, which have already been sold in favour of third persons and a claim made in A.R.C.No.40 of 2004 by one of such subsequent allottees has become final. Hence, the complaint.

It was further alleged that the second respondent was pressurizing the petitioner No.1 not to engage any Advocates in various litigations filed by the very same complaint. Therefore, it is submitted that primarily the first respondent has neither territorial jurisdiction to entertain the complaint nor the complainant has made out any case for attracting the provisions of Section 415, 420 and 409 IPC. Hence, the writ petition.

Contesting the petitioners claims, the second respondent filed counter affidavit reiterating the allegations as made out in the complaint, stating that in pursuance thereof, the crime was registered as Cr.No.423 of 2004 on 07.06.2004. Further, during the course of investigation, it was revealed that the petitioner is also involved in addition to one B.Lakshminarayana, A-2 and other two accused who were shown as A-1, A-3 and A-4 are not involved in the commission of offence, and therefore, the petitioner was shown as A-1 and the said Lakshminarayana
as A-2 while deleting the other accused persons vide C.D, dated 07.07.2004. During the process, the accused No.2 was arrested on 07.07.2004 and produced before the Magistrate on the same day and whereby he was remanded to judicial custody, whereas, the petitioner No.1 who is accused No.1 is found absconding.

The investigation in the said case is still pending. The allegation that the second respondent pressurizing the petitioners-society in any manner, is denied. Further having regard to the fact that the registration was done in the Sub-Registrar Office at Kukatpally in Rangareddy District, and therefore, the respondent No.1 has ample

jurisdiction. Even from out of the allegations made, it cannot be said that no case has been made out, and hence, there are no merits in the writ petition and the same is liable to be dismissed.

Sri A.Ramanarayana, the learned counsel appearing on behalf of the petitioners submitted first that even on a fair reading of the allegations made in the complaint, no offence is made out to attract the aforesaid provisions and further mere registration of a document would not in any way comes within the jurisdiction of respondent No.1, hence, the complaint is liable to be quashed.

Repelling the submissions, it is contended by the learned Government Pleader appearing for Home and also by Sri M.Rama Rao, learned counsel appearing for the contesting respondent no.3 that the aforesaid contentions are not sustainable, more so, the very fact disclose ample involvement of the petitioner and the commission of offence has rightly stated in view of the registration in the Sub-Registrar office at Kukatpally, which falls the jurisdiction of respondent No.1, the complaint has been rightly filed.

Having considered the submissions made and also on perusal of the material, the question which falls for consideration is whether on the facts and circumstances, the allegations contained in the complaint filed by the respondent no.3 herein makes out any offence as contemplated under Section 415, 420 and 409 IPC.

Several allegations have been made in regard to the antecedents, interior facts about the elections and the petitioner getting elected, and the groups in the society. However, all those are not required to be considered at this juncture, since the only point involved is about the sustainability of the complaint. The gist of the complaint as can be seen and read is that the petitioner along with one B.Lakshminrayana are selling plots which have already been

sold to the third persons, and therefore, there is not only cheating but also criminal breach of trust by the office bearers. However, the case of the petitioner is that though earlier the plots were sold, but the same has resumed since no construction was made out as per byelaws, and therefore, the same are being allotted to the other members of the Society.

Be that as it may, the complaint is not at the instance of the subsequent purchasers who could really said to have filed a complaint against the petitioner rather than any other person. As per the complaint, the complainant is concerned; there is no inducement much less any representation to the complainant in regard to the alleged act. The persons, who are really affected i.e., subsequent purchasers or earlier owners, are not the complainants. In view of the same, it cannot be said that any of the provisions mentioned namely Sections 409, 415 and 420 IPC can be attractable.

Prima-facie, I am satisfied that no case has been made out any of the offences as contemplated thereunder, and in the circumstances, it is to be held that the very complaint totally lacks merits and lacks prima-facie case and as such, the same is liable to be set aside.

Having regard to the same, it is not necessary to go into other question regarding the jurisdiction. Though it cannot be said that mere registration of a document can form part of the execution of a document, as such to bring within the jurisdiction of the respondent no.1.

In the circumstances, the writ petition is accordingly allowed and the F.I.R in Crime No.423 of 2004 on the file of the first respondent is quashed. No order as to costs.

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(B.PRAKASH RAO, J)

Dated: 18-11-2004

Ycr

To

1. The Sub-Inspector of Police, Kukatpally Police Station, R.R.Dist.
2. A.Rami Reddy, The Sub-Inspector of Police, Kukatpally Police Station,

R.R.Dist.

3. 2 CCs to G.P. for Home, High Court of A.P., Hyderabad.

4. 2 C.D. copies.